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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,685	11/08/2002	Jeffrey Allen Doering	202-0829	2321
46535	7590	05/03/2005	EXAMINER	
BIR LAW, PLC/FGTL 45094 MIDDLEBURY COURT CANTON, MI 48188-3215			MOHANTY, BIBHU R	
			ART UNIT	PAPER NUMBER
			3747	

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/065,685	Applicant(s) DOERING, JEFFREY ALLEN	
	Examiner Bibhu Mohanty	Art Unit 3747	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5,6,8,16 and 25-28 is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 7 and 10-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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I. DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Kittleson US Patent 4,575,800.

Kittleson has disclosed the invention as claimed. Note in claim 1 of the Kittelson patent a first parameter (the shaft rotation speed) and second parameter (the speed of the shaft in other time segments) are compared. A weighting factor is applied to the parameters to generate a weighted difference.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 2-3, 9, 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kittleson US Patent 4,575,800.

Kittleson has disclosed the invention substantially as claimed (see ppgh. 1 above). However Kittleson does control the engine based on torque, engine speed, barometric pressure or mass airflow. Kittleson instead controls the engine based on the speed of the rotating shaft.

The Examiner takes Official Notice that engines frequently measure a variety of engine parameters including engine torque, engine speed, barometric pressure and mass airflow and use these parameters to control the engine for efficient fuel economy.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Kittleson to measure the engine parameters of engine torque, engine speed, barometric pressure or mass airflow if desired and use these parameters to control the engine for efficient fuel economy.

With regards to claim 9, the use of plural sensors is considered an obvious expedient in case on sensor fails.

With regards to claims 14 and 15, the controller is considered to perform the claimed method steps.

3. Claims 5-6, 8, 16, 25-28 are allowable over the prior art of record.

Claims 7, 10-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. Applicants response filed 5-19-04 has been received and fully considered but are not deemed persuasive to withdraw the rejection of record for the rejected claims above.

Applicant argues on page 5 of the remarks that Kittleson does not show the first parameter and the second parameter to be separate. The Kittleson reference states in claim 1 that a weighted difference is computed between the "average speeds in the first plural segments and the second ones of the plural segments" (see Kittleson's claim 1). Kittleson shows that the average speed in different time periods are used in the weighted difference. These different time periods meet the limitation for a "first parameter value" and a "second parameter value" in the rejected claims. Applicant's claims do not preclude the first and second parameter values from being based on the same parameter at different time periods.

With regards to the rejections of claims 2-3, note that the engine shaft rotation speed as used by Kittleson is closely related parameter to "engine speed" and "engine torque" in that the work of the engine is measured, but by different values. The modification of the method of Kittleson to use either engine speed or engine torque is considered obvious for that reason.

Claims 10-13 have been objected to based on the remarks by the applicant.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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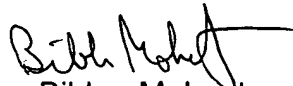
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bibhu Mohanty whose telephone number is 571 272-4851. The examiner can normally be reached on 571-272-4851.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen, can be reached on 571-272-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Bibhu Mohanty
Primary Examiner
Art Unit 3747